

yass valley council

the country the people

Your Reference: PP_2013_YASSV_003_00
Our Reference: PP-2012-01
Document No:
Contact: Will Mayes
Phone: (02) 6226 1477

Address all correspondence to:
General Manager
Yass Valley Council
PO Box 6
YASS NSW 2582

25 September 2014

Ms Linda Davis
Acting General Manager
Southern Region
NSW Department of Planning & Environment
PO Box 5475
Wollongong NSW 2520



Dear Linda

Yass Valley Rural Lands Planning Proposal

Thank you for your letter dated 13 August 2014 requesting copies of comments made by State agencies regarding the Yass Valley Rural Lands Planning Proposal.

I note that you wish to view these comments prior to forming an opinion as to whether the Planning Proposal is consistent with Section 117 Directions 1.2 Rural Zones, 1.5 Rural Lands & 5.1 Implementation of Regional Strategies.

Accordingly, please find enclosed copies of comments from the following State agencies:

- ACT Government
- NSW Office of Environment & Heritage
- South East Local Land Services
- NSW Department of Primary Industries – Office of Water
- NSW Department of Primary Industries – Agriculture
- NSW Rural Fire Service

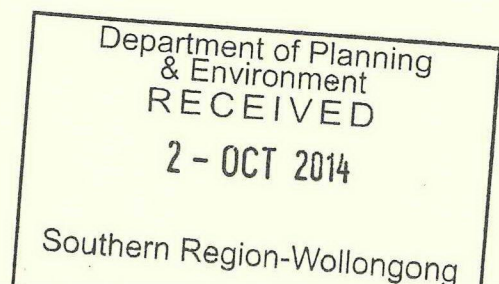
As you are aware, the Department issued authorisation to Yass Valley Council to exercise its delegation to make the plan. Council was however advised that it must not use its delegation where there is an unresolved agency objection to the proposal. Accordingly, Council wishes to advise the Department that it has received two agency objections to the Planning Proposal and seeks the Department's assistance to resolve these matters so the plan may proceed under delegation.

In addition, Council was also advised to obtain the Director General's agreement to satisfy the requirements of relevant section 117 Directions. Council is of the view that these matters have been addressed and confirmed by a Peer Review of the proposal previously forwarded to your office.

Should you require any additional information or wish to discuss the matter further, please do not hesitate to contact Council's Strategic Planner – Will Mayes on 6226 1477 or via email at will.mayes@yass.nsw.gov.au.

Yours sincerely

Chris Berry
Director of Planning & Environmental Services



COUNCIL CHAMBERS
209 COMUR STREET
YASS NSW 2582

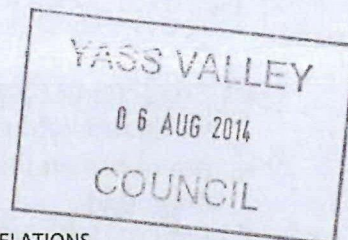
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Mick Gentleman MLA

MINISTER FOR PLANNING
MINISTER FOR COMMUNITY SERVICES
MINISTER FOR WORKPLACE SAFETY AND INDUSTRIAL RELATIONS
MINISTER FOR CHILDREN AND YOUNG PEOPLE
MINISTER FOR AGEING
MEMBER FOR BRINDABELLA



The General Manager
Yass Valley Council
PO Box 6
YASS NSW 2582

Attention: Ms Liz Makin
Strategic Planning Manager

Dear Ms Makin

Thank you for your letter of 8 July 2014 to Mr Simon Corbell MLA, the former Minister for the Environment and Sustainable Development, inviting the ACT Government to provide comments on the Yass Valley Rural Lands Planning Proposal (the Planning Proposal). As the recently appointed Minister for Planning, responsibility for this matter now falls within my portfolio.

The ACT Government provided comments in August 2012 in relation to consultation undertaken for the then draft Yass Valley LEP (Ref: A7588093). The key issue raised was the value of the RU1 zone acting as a 'green' buffer between ACT urban development and Yass and associated villages.

Public consultation for the *ACT Planning Strategy (2012)* identified that the ACT community would like to see the retention of rural lands on ACT borders. Rural industry and agricultural landscapes are resources that should be protected by limiting activities and development that may diminish their economic, cultural and scenic contribution to the Region.

However, we recognise the population growth in the Yass Valley and the need to accommodate increased residential development. Containing future residential development to villages and towns is our preference. This approach allows sustainability principles to be met, including:

- the provision of sufficient water resources
- acceptable bushfire risk
- acceptable effluent and water management

ACT LEGISLATIVE ASSEMBLY

London Circuit, Canberra ACT 2601 GPO Box 1020, Canberra ACT 2601
Phone: (02) 6205 0218 Fax: (02) 6205 0368 Email: GENTLEMAN@act.gov.au
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- protection of areas of high conservation, cultural, natural heritage or landscape value
- equitable and timely access to facilities and services without undue cost, and
- efficient and cost effective provision of infrastructure.

You would be aware that strategic land use and growth-related infrastructure planning is being progressed through an ACT-NSW Land Use and Infrastructure Framework (framework) under the ACT-NSW MoU for Regional Collaboration. Along with ACT Government input, we understand NSW Planning has engaged with the six surrounding councils to develop the framework. The framework will provide a shared understanding of emerging infrastructure and servicing implications arising from growth and development in a cross border setting. Continued residential growth in the surrounding councils further highlights the need for this framework.

Thank you for the opportunity to provide comments on the Planning Proposal. If you have any further questions, please do not hesitate to contact Mr Steven Gianakis, Senior Manager Planning Investigations, Environment and Planning Directorate by telephone on 6207 1741, or by email at Steven.Gianakis@act.gov.au.

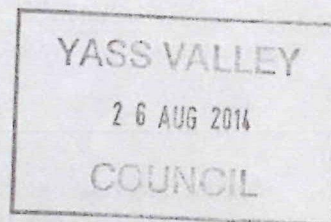
Yours sincerely



Mick Gentleman MLA
Minister for Planning
4th August 2014



**Office of
Environment
& Heritage**



Your Reference
Our reference:
Contact:

PP-2012-01
DOC14/125953
Amanda Sullivan
6229 7093

The General Manager
Yass Valley Council
PO Box 6
Yass NSW 2582

Attention Liz Makim,

Dear Sir,

RE: Yass Valley Rural Lands Planning Proposal (PP-2012-01)

I refer to your letter of 8 July 2014 inviting the Office of Environment and Heritage (OEH) to comment on the Yass Valley Rural Lands Planning Proposal to amend the Yass Valley Local Environmental Plan 2013 (LEP) to reduce the average lot size of RU1 and RU2 zoned lands from 80 hectares to 40 hectares.

OEH has reviewed the Yass Valley Council Rural Lands Planning Proposal 2013, and the Yass Valley –Rural Lands Planning Proposal Independent Review 2014 prepared by EDM group.

OEH objects to this proposal. OEH's objections are based on the following:

- The proposal potentially doubles the environmental impacts associated with rural settlement of clearing for house sites, fences, roads, electricity lines, rural infrastructure, sheds and bushfire asset protection requirements. Full subdivision potential is likely to be realised over time given that there is a high demand for rural lifestyle blocks in the area.
- A thorough consideration of the cumulative impacts of the proposal upon the environment has not occurred. OEH is of the view that the impacts to the environment may be significant.
- Past examples of applying a minimum lot size of 40 ha within the ACT subregion have caused unacceptable fragmentation on patches of intact native vegetation.
- Justification for the planning proposal to be applied evenly across the rural zones of the Local Government Area has not been clearly articulated. The arguments that the rural landscape supports two distinct areas: (1) south-eastern and (2) northern and western would suggest the need to consider two distinct minimum lot size standards.
- Consistency with statutory documents, such as the Yass Valley LEP 2013, Rural Lands SEPP, Section 117 Directions and the Sydney Canberra Corridor Regional Strategy in regards to the protection of the environment have not been established.

OEH supports the position that a "one size fits all" approach may not be appropriate across the broadacre rural zones. A larger lot size than proposed is considered more appropriate in holdings of primarily intact native vegetation.

A discussion expanding on these points is provided in **Attachment 1** of the OEH detailed comments on Yass Valley Rural Lands Planning Proposal'.

OEH is willing to assist Council to identify lands where the reduction of lot size will have minimal environmental impact and developing provisions that protect the biodiversity values of the rural zones of Yass Valley LGA in the LEP amendment. The environmental data to make an informed decision in this regard already exists.

Should you wish to discuss any of issues raised in this letter, or require additional information, please contact Conservation Planning Officer, Amanda Sullivan on phone number 6229 7093 or by email on amanda.sullivan@environment.nsw.gov.au (Mon-Wed).

Yours sincerely

 22.08.14

MICHAEL SAXON
Regional Manager South East
Regional Operations Group

Attachment 1

OEH Detailed Comments on Yass Valley Rural Lands Planning Proposal (PP-2012-01)

Environmental Impacts

OEH acknowledges that one of the goals of the Rural Lands Planning Proposal (the Planning Proposal) is to encourage diversity of agricultural activities within Yass Valley LGA; however this goal needs to have regard to the impact upon the environment, as directed in Clause 7(e) of the State Planning Policy (Rural Lands) 2008;

'the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,'

The planning proposal has not demonstrated how the environment is to be protected and constrained land is to be avoided.

On a strategic level, there appears to have been no comprehensive consideration of the cumulative impacts of the proposal. The Planning Proposal and the EDM Independent Review only consider the need to protect the environment at the individual Development Application (DA) stage. Relying upon protecting the environment at the DA stage provides no certainty in planning outcomes. (See comments below on the use of Councils biodiversity map).

OEH has estimated that the planning proposal potentially could yield an additional 1549 lots of 40 ha within RU1 and RU2 zoned land and 3000 additional dwellings. There is no acknowledgment in the supporting documents that the change in minimum lots sizes, will cause the clearance of native vegetation associated with house sites, fences, roads, electricity lines, rural infrastructure, sheds and bushfire asset protection requirements. Fences restricting native animal movements, firewood collection, additional cats and dogs potentially impact on native species and there will be impacts on riparian areas and aquatic environments by creating additional water rights.

This approach of protecting the environment at the DA level may lead to unacceptable fragmentation and loss of biodiversity. One of the greatest threats to biodiversity in peri-urban regions is loss of large remnant patches of native vegetation (Hollier C et al, 2002). As seen in the Figure 1 overleaf, within Yass Valley LGA there are 210 patches of remnant native vegetation greater than 40 ha, this equates to 80% of the LGA's remnant native vegetation. It is unclear how these patches are going to be protected with the reduction in minimum lot sizes.



Figure 1. Remnant Vegetation Patches over 40 ha, within Yass Valley LGA

Within ACT subregion, Goulburn Mulwaree LEP introduced a 40 minimum lot size, which caused fragmentation of patches of intact native vegetation (see Figures 2 and Figure 3 below).

Figure 2 – Windellema Area, Goulburn Mulwaree LGA



Figures 2 and 3 show by way of example what can happen to intact native vegetation when a minimum 20-40 ha lot size is introduced

Figure 3 – Windellema Area, Goulburn Mulwaree LGA



Potential Impacts on Threatened Species and Ecological communities

The proposal has the potential to lead to significant impacts on threatened species. Specifically, the proposal may have a significant impact on the the distribution and long term viability of the *White Box Yellow Box Blakely's Red Gum Woodland* (commonly referred to as Box-Gum Woodland) *Endangered Ecological Community*, Superb Parrots and the Yass Daisy.

OEH considers that sensitive environmental areas need to be identified across the rural landscape, and consideration be given on how the minimum lot size will impact upon those values. Such areas include:

- intact native vegetation over 40ha in size,
- Box-Gum woodland,
- Nesting habitat of Superb Parrots
- Known threatened species sites
- National Parks and Reserves and
- identified significant geological areas.

Justification

The justification to reduce the rural minimum lot size from 80 ha to 40 ha across the RU1 and RU2 zones, which equates to over 80% of the LGA, is not clearly articulated in the Planning Proposal.

Alternative proposals such as adjusting the minimum lot size as allowed using lot averaging or considering an intensive agriculture clause as identified in the NSW DPE Planning Team Report do not seem to have been addressed.

It is noted that the NSW DPE Planning Team recommendations required a peer review be carried out. OEH has reviewed the Yass Valley Rural Lands Planning Proposal Independent Review 2014 (EDM) and finds:

Whilst the report provides a detailed review of economic and social implications based on extensive research, the environmental implications are poorly considered. Section 3.3 states that biodiversity was considered from '*observations made in the brief inspection of Yass Valley LGA*' (p.30)

The report considers that a '*key need is to promote the use of native species rather than exotics*' in replanting vegetation. OEH disagrees with this finding.

OEH considers that the key needs are:

- retention of large patches of intact native vegetation,
- retention of hollow resources of large trees and
- improving the condition of grassy box woodlands.

The concluding comments of the EDM Independent Review (p 43) confirms that the proposal has not fully proven that there will be better environmental outcomes and that only limited evidence has been provided.

The Gateway Determination includes the introduction of proposed dual occupancies permissible in certain rural and environmental protection zones where a dwelling is permitted. It is not clear whether this Planning Proposal also includes the provision for dual occupancy. If so there is no discussion examining and supporting this proposal. OEH opposes the introduction of dual occupancies in certain environmental zones without first viewing supportive information.

The following statement within the EDM Independent Review is incongruent with the justification for a blanket minimum lot size reduction across the rural zones:

'there is a pressing need to consider the role of at least two minimum lot size standards, being one for lower lot sizes in the southern section and another a larger minimum lot sizes in the northern and western section of the Yass Valley LGA as supported by land holdings and land value figures' (p.42)

OEH acknowledges the EDM recommendation may have merit as long as sensitive environmental values are identified and avoided in the lower minimum lot size areas by specific provisions.

Consistency with statutory documents

The Planning proposal is inconsistent with the following statutory documents in regards to the protection of the environment.

Yass Valley LEP 2013

The Planning Proposal does not address how the following aim and objectives of the LEP are met:

Clause 1.2

(j) to protect and enhance the environmental and biodiversity values of Yass Valley and

Land Use Table - Zone RU1:

' To protect and enhance the biodiversity of Yass Valley'.

' To protect the geologically significant areas of Yass Valley'.

Use of Council's Biodiversity Map

Environmental considerations in the Planning Proposal and the EDM Independent Review, incorrectly rely upon Clause 6.3 Terrestrial Biodiversity and land identified as "Biodiversity" on the Natural Resources Biodiversity Map to protect areas with environmental value through assessing development applications on a needs basis (p57).

The Natural Resources Mapping does not provide for a strategic overview, or consider cumulative impacts of a widespread planning policy. The inappropriate application of this tool beyond the individual DA consent process would promote the 'death by a thousand cuts' scenario in terms of vegetation clearance and potentially lead to significant impacts upon listed threatened species.

117 Directions

The planning proposal has not demonstrated consistency with all sections of 1.5 Rural Lands of the 117 Directions. Specifically, Section 6(a) requires the proposal to be 'justified by a strategy' and 6(b) requires the planning proposal 'be of minor significance'. OEHL considers the potential impact of this planning proposal on the environment within Yass Valley LGA is not of a minor significance.

The consistency with (4) Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008 is discussed below.

State Environmental Planning Policy (Rural Lands) 2008

As mentioned above, OEHL considers that the two supporting reports do not adequately consider:

Clause 7 (e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,

It is essential that impacts upon the environment are considered at a strategic level, simply saying that it will be addressed at the DA level is not considered adequate. There are existing environmental datasets available to assist Council in identifying the important sensitive areas.

Sydney Canberra Corridor Regional Strategy 2006-2031 (NSW Department of Planning, 2008)

The two supporting reports failed to fully consider the following actions from the Sydney Canberra Corridor Regional Strategy:

"Councils are to ensure that strategies are prepared to manage rural lands to accommodate and protect the range of values that comprise rural lands being scenic, environmental and economic." (p21).

'Local Environmental Plans will:

-Include provisions to limit the number of dwellings in the rural and environmental zones.' (p.21)

'Councils will confirm the location and conservation significance of key assets such as remnant vegetation... in consultation with the Department of Environment and Climate Change (now OEH)in managing rural lands' (p. 44)

'Councils will ensure new rural residential development is directed away from land assessed as being of high conservation value and appropriate planning controls incorporated into local environmental plans to protect biodiversity values on other conservation land' (p.44).

'New development adjoining or adjacent to areas of high biodiversity value will incorporate buffers to avoid land use conflict' (p44).

'Councils will consider controls to limit the creation of additional water rights on land fronting watercourses when preparing local environmental plans...' (p44)

Rural Fires Amendment (Vegetation Clearing) Act 2014

This Act introduces provisions that allow the owner of land situated within a "10/50 vegetation clearing entitlement area" to carry out certain vegetation clearing work on their land without needing approval for the clearing under any other legislation.

Should the planning proposal proceed in its current form, where there is the potential to allow for 3000 additional new dwellings within Yass Valley LGA, clearing of native vegetation associated with this new ACT is likely to be widespread.

OEH welcomes the opportunity to work further with Council in fulfilling requirements of the Section 117 Directions and the Sydney Canberra Corridor Regional Strategy in terms of protection of environmental values across the rural landscape of Yass Valley LGA.

References

Hollier C, Reid M, Francis J and Avery A (2002) "Small and lifestyle farms - has the horse bolted for biodiversity gains?" – in Croswaithe J, Farmar-Bowers & Hollier C (eds) (2003) 'Rural Land Use Change –YES! But will Biodiversity be OK?' Conference proceedings 19-20 August 2002 Attwood, Victoria Department of Sustainability and Environment, Melbourne (p26)

'Practice Note for using spatial information in Local Environmental Plans to protect and manage Environmentally Sensitive Lands Murray-Murrumbidgee Region', Department of Environment and Climate Change NSW, 2009.
<http://www.environment.nsw.gov.au/resources/biodiversity/09353pnforesl.pdf>

Rural Lands Planning Proposal, Yass Valley Council, 2013

State Environmental Planning Policy (Rural Lands) 2008

Sydney Canberra Corridor Regional Strategy 2006-2031, NSW Department of Planning, 2008

Yass Valley Local Environmental Plan 2013

Yass Valley Rural Lands Planning Proposal – Independent Review, EDM, June 2014

Yass Valley – Proposal to Reduce Rural Lot Size from 80 ha to 40 ha with lot averaging, Planning Team Report Dept. Planning and Environment, Oct 2013



Local Land
Services
South East

Request Number: NA

YASS VALLEY

11 SEP 2014

COUNCIL

LLS File Ref: HN03072

9 September 2014

General Manager
Yass Valley Shire Council
PO Box 6
YASS NSW 2582

Dear Sir,

Yass Valley Rural Lands Planning Proposal (PP-2012-01)

Thank you for your letter (8 July 2014) to the South East Local Land Services (LLS) regarding the Gateway Determination from the NSW Department of Planning and Environment, to amend the Yass Valley Local Environmental Plan 2013.

This proposal seeks to reduce the minimum lot size of land zoned RU1 Primary Production and RU2 Rural Landscape from 80 hectares to 40 hectares, and also allow the use of lot averaging provisions.

The Local Land Services (LLS) is not currently in a position to provide a written submission on the Gateway Determination however LLS can arrange to meet with Council, to discuss any native vegetation issues that may arise from the proposal.

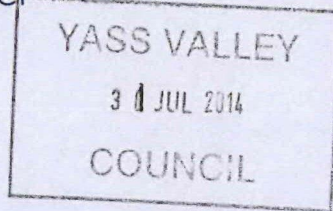
If you have any further enquiries, please contact me on telephone (02) 48286777 or e-mail gina.quinane@lls.nsw.gov.au.

Yours sincerely

Gina Guinane
Senior Land Services Officer (Bio/NV Act)



Department of
Primary Industries
Office of Water



Liz Makin
Yass Valley Council
PO Box 6
YASS NSW 2582

Contact Tim Baker
Phone 02 6841 7403
Mobile 0428 162 097
Fax 02 6884 0096
Email Tim.Baker@water.nsw.gov.au

Our ref ER23053

Dear Liz

Yass Valley Rural Lands Planning Proposal (PP2012-01)

I refer to your letter dated 8th July 2014 requesting comments on a planning proposal to amend the Yass Valley Local Environmental Plan 2013. It is understood the proposal is to reduce the minimum lot size of land zoned RU1 – Primary Production and RU2 – Rural Landscape from 80 hectares to 40 hectares and allow lot size averaging. The NSW Office of Water appreciates the opportunity to comment and requests the following comments be considered in finalising the proposal.

- Justification is not clear in the planning proposal of the existing or future demand to reduce lot size across the whole LGA and that the use of the current averaging rule would not meet the demand. It is recommended further justification be provided.
- The proposal indicates a key reason for proposing a smaller lot size is a trend towards smaller more intensive agriculture on lots between 20 and 40 hectares. Due to the water demand and water security requirements of intensive agriculture it is recommended further analysis be provided on water demands of the proposed landuse and water availability within the LGA. This will need to consider both the availability of water from groundwater and surface water, in addition to the ability to obtain water entitlements within the relevant water sharing plans. The potential impact on existing water users also needs to be considered.
- The Yass Valley LGA is characterised by a number of key rivers (Murrumbidgee, Yass, Boorowa, Goodradigbee) and numerous supporting tributaries, in addition to Burrinjuck Dam. An increase in the number of lots on waterways has the potential to increase water demands via the basic right of landholders to extract water for stock and domestic purposes. It is recommended consideration be given to this impact on existing water users over the whole LGA.
- Groundwater is currently used widely within the Yass Valley LGA to meet water demands within towns, villages and the broader agricultural lands. An increase in land intensification and resultant requirements for effluent management and water supply need to be considered for potential impacts to water quality and quantity of the aquifer and impacts to existing and future users.

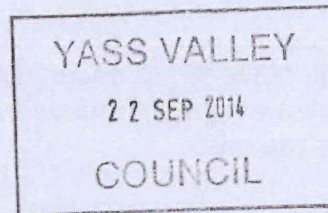
Should you have any further general queries in relation to this submission please do not hesitate to contact Tim Baker on (02) 6841 7403.

Yours sincerely

Mitchell Isaacs
Manager Strategic Stakeholder Liaison
28 July 2014



Department of
Primary Industries



OUT14/27051

19 SEP 2014

The General Manager
Yass Valley Council
PO Box 6
YASS NSW 2582

Attention: Ms Liz Makin

Dear Ms Makin

Re: Yass Valley Rural Lands Planning Proposal (PP-2012-01)

Thank you for your letter dated 8 July 2014, requesting the Department of Primary Industries (DPI) to provide comments on the Yass Valley Rural Lands Planning Proposal.

It is understood that the purpose of the planning proposal is to lower the minimum lot size across Yass Valley Shire in the RU1 Primary Production and RU2 Rural Landscape Zones from 80ha with lot averaging to 40ha with lot averaging.

DPI does not support the reduction in the minimum lot size from 80ha to 40ha on land across the entire shire zoned RU1 Primary Production and RU2 Rural Landscape Zones. The Yass Shire is still inherently focussed on extensive grazing that still relies on large lots to undertake such agriculture and maximise the uptake of other agricultural land based opportunities that arise. Allowing ongoing fragmentation of the land will threaten agricultural resources causing farms to become less resilient in the face of changing climates and economic conditions.

There is also little evidence provided to substantiate that the changing face of agriculture needs to be reflected in subdivision standards across the whole of the shire. To cope with the "changing face of agriculture" and flexibility for legitimate enterprises that may need small lots, there are already provisions in the Yass LEP 2013 that provide for that, including subdivision for primary production (no dwelling entitlement) and the 80ha lot averaging provision that allows subdivision down to 40ha.

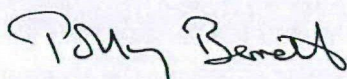
DPI understands that there is a need to provide for flexibility in farming styles for emerging agriculture and small scale agriculture in an area where there is high pressure for diversified agricultural products as is the case with properties near to Canberra. Having considered the pressures and community interests, DPI may be amenable to establishing a 40ha minimum lot size in an area to the east of Yass, with the remaining area of the Shire to be retained as the 80ha minimum lot size. This would allow for an area of small scale niche type agriculture to be developed in close proximity to Canberra where the demand is most likely to be generated.

It would be important, however, to undertake relevant studies to monitor the impacts of that proposal to provide evidence for future agricultural planning in the Yass and other Southern Tablelands regions.

There are a number of aspects of this proposal that have been addressed in detail in the attachment to this letter including the consistency of the proposal with the S117 Directions.

If you wish to discuss the matter in further detail please contact Wendy Goodburn, Resource Management Officer, by phone on 4828 6635 or by email at wendy.goodburn@dpi.nsw.gov.au.

Yours sincerely



**POLLY BENNETT
ACTING DEPUTY DIRECTOR GENERAL
AGRICULTURE NSW**

Encl

ATTACHMENT

NSW AGRICULTURE COMMENTS

The Department does not support the reduction in the minimum lot size from 80ha to 40ha on land across the entire Shire zoned RU1 Primary Production and RU2 Rural Landscape Zones as it will allow the ongoing subdivision of agricultural land.

There are a number of matters considered below that address this perspective.

Farming verses hobby (lifestyle) farming

The key in setting a minimum lot size lies in the ability to identify a size that will protect agricultural land from subdivision for lifestyle purposes. A minimum lot size for a shire may not be reflective of real farm sizes but we believe 80ha removes the speculative value of land development for other uses with land being able to be legitimately used for ongoing agriculture.

There is also some evidence to support the suggestion that land below 80ha in size is mostly utilised for lifestyle purposes and lots above 80ha are mostly used for farming purposes. A survey of 90 landholders undertaken by Tweed Shire Council for strategic planning purposes provides useful information on the purpose of property sizes. In that survey, 84% of properties below 80ha were used primarily for lifestyle purposes and 59% of properties above 80ha were used for farming purposes. (Tweed Shire Council landholder survey). Clearly there may be regional differences, however, it does show that lifestyle lots are generally smaller in size and that 40ha is not likely to protect land from use for lifestyle purposes.

NSW DPI considers that the 80ha minimum lot size that attracts a dwelling entitlement has and will continue to protect agricultural land from being allocated to other uses. There is also nothing to indicate that this has not worked over recent history. The emergence of the 'ad-hoc' hobby farm style subdivision in the rural zones has been prevented to a large extent. The 80 hectare minimum lot size will continue to provide a sufficient barrier to ruling this out.

Emerging trends in agriculture

Emerging trends in agriculture that are not articulated in the study includes the issue of food security, impacts of climate change and the mitigation and adaptations many farms will need to undertake to deal with less rainfall, warmer temperatures and increased incidence of storms. Having an adequate land area is one way a commercial enterprise can deal with these changes including the allocation of land to biodiversity incentives or other incentives to deal with these and other environmental issues. An 80 hectare minimum lot size will continue to enable farms to remain in areas that are able to deal with these opportunities and changes.

Precedence from surrounding shires

It should be noted also that most councils in the surrounding area have a mixture of minimum lot sizes across various parts of the shire ranging from 40ha to 200ha, including Upper Lachlan, Goulburn Mulwaree, Tumut and Wollondilly Councils. None of those shires have a minimum lot size of 40ha across the entire shire. With the exception of Wollondilly Shire, all those councils have environments that are similar in biophysical features, rainfall and other climate parameters, land use, past subdivision patterns and distances to population centres. Consequently, the minimum lot size should not be that dissimilar to those councils.

Consistency with Rural Land SEPP

The following comments are offered in relation to the rural planning principles in the Rural Lands SEPP.

(a) The promotion and protection of opportunities for current and potential productive sustainable economic activities in rural areas.

Maintaining existing agriculture is clearly as important as developing agricultural potential. The concern is that a 40ha minimum will potentially create numerous lifestyle lots and small sub economic farms that are more susceptible to climate and market fluctuations leading to a poor economic situation. Trialling a reasonable size area in the east of the shire for conversion from 80ha to 40ha and studying the impacts would clearly be a more considered and precautionary approach and would be amenable to NSW DPI. That approach would also enable evidence to be gathered by undertaking a study of the merits or otherwise of the provision.

Allowing a reduction of minimum lot size from 80ha to 40ha across the rural zone of the shire would not be consistent with this principle.

(b) Recognition of the importance of rural and agriculture and the changing face of agricultural and of trends, demands and issues in agriculture in the area, region or state.

NSW DPI would be amenable to enabling flexibility in farming styles for emerging agriculture and small scale type agricultural industries in an area where there is high pressure for a diversified agricultural product as is the case with properties to the east of Yass. This area already has some established intensive agricultural activities including wineries, organic farming, poultry farming as well as food and wine trails, truffle hunts etc. Allowing an extension of that area for small scale agriculture would make good planning sense, particularly with relevant studies undertaken to monitor the impacts. It is suggested the minimum lot size in that area could be reduced to 40ha.

(c) Recognition of the significant of rural land uses to the State and rural communities including the social and economic benefits of rural land use and development

The Yass Valley Planning Proposal 2013 recognises the values of land for agriculture. However, below the 80 hectare minimum lot size, the fragmentation of land will continue.

(d) In planning for rural lands, to balance the social, economic and environmental interest of the community.

The balance of social, economic and environmental interests of the community may be achieved by introducing a range of lot sizes from 40ha to 80ha in specific locations in the shire, rather than 40ha across the shire.

(e) The identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land.

An 80 hectare minimum lot size continues to protect those natural resources already developed and used for agriculture e.g. cleared land for cropping, soils managed for agriculture, etc. Land developed for agriculture is a limited resource so the 80 hectare minimum lot size should be retained.

(f) The provision of opportunities for rural lifestyle, settlement and housing that contribute the social and economic welfare of rural communities.

The current Yass LEP 2013 already contains many provisions that enable flexibility for subdivision below 80ha. They include:

- Provisions for an 80ha minimum lot size with lot averaging that allows lots down to 40 Ha;
- Clause 4.2(3) of the Yass LEP 2013 permits subdivision for the purposes of primary production, but does not permit a dwelling house;
- Schedule 1 Yass LEP 2013 allows Additional Permitted Uses; and
- If the council agreed to develop a 40ha minimum lot size to the east of the shire for agricultural diversification purposes, then there would be significant opportunities for subdivision below 80ha.

(g) The consideration of impacts on services and infrastructure and appropriate location when provided for rural housing.

The Yass LEP 2013 provides lots for rural residential living around its existing villages and towns which enables housing to be located where infrastructure is or can be supplied. The primary production zone is not the place for housing (or large lot lifestyle properties) to be supplied in it.

(h) Ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director General.

The Yass Planning Proposal 2013 would result in agricultural land being converted to hobby farm purposes and potentially threatening existing more traditional agriculture. The Sydney Canberra Corridor Strategy supports both the retention of traditional agriculture and emergence of lifestyle agriculture and residential living in rural areas. This could potentially be achieved by the existing provisions already contained in the Yass LEP 2013 as well as reducing the minimum lot size from 80ha to 40ha in the east of the shire for small scale agriculture and retaining the 80ha minimum lot size to the north west of the shire.

Summary

From the information provided in the Rural Lands Planning Proposal document prepared by Yass Valley Council, 2013, there appears to be two main reasons to reduce the minimum lot size from 80ha to 40ha across the shire. They are to:

- Allow farmers to access capital in the farm to be able to respond to drought, address the issue of increased costs and reduced farm income and provide funds for succession planning and superannuation; and
- Enable agricultural diversification by allowing small lot niche farming (alpacas, goats, horticulture, hydroponics, free range etc).

The Department does not support the reduction in the minimum lot size from 80ha to 40ha across the entire shire on land zoned RU1 Primary Production and RU2 Rural Landscape Zones.

The Yass Shire is still inherently focussed on extensive grazing and some cropping enterprises that still rely on large lots to undertake such agriculture and maximise the uptake of other agricultural land based opportunities that arise.

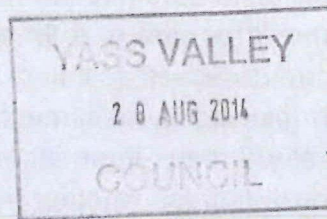
There is also little evidence provided to substantiate that the changing face of agriculture needs to be reflected in subdivision standards across the whole of the Shire. To cope with the "changing face of agriculture" and flexibility for legitimate enterprises that may need small lots, there are already provisions in the Yass LEP 2013 that provide for that, including subdivision for primary production (no dwelling entitlement) and the 80ha lot averaging provision. However, the NSW DPI may also be amenable to establishing a 40ha minimum lot size in an area to the east of Yass, with the remaining area of the Shire to be retained as the 80ha minimum lot size. This would allow for an area of small scale niche type agriculture to be developed in close proximity to Canberra where the demand is most likely to be generated.



NSW RURAL FIRE SERVICE



The General Manager
Yass Valley Council
PO Box 6
YASS NSW 2582



Your Ref: PP-2012-01
Our Ref: LEP/0182
DA14071793003 LE

ATTENTION: Will Mayes

25 August 2014

Dear Sir/Madam,

RE: Planning Proposal to amend the Yass Valley Local Environment Plan 2013

I refer to your letter dated 8 July 2014 seeking comments for the above Planning Proposal in accordance with section 56(2)(d) of the *Environmental Planning and Assessment Act 1979*.

The N.S.W. Rural Fire Service provides the following comments:

1. It is noted that the proposal involves reducing the minimum lot size for land zoned RU1 Primary Production and RU2 Rural Landscape and to make the erection of dual occupancies permissible on land zoned RU1, RU2, RU4, E3 and E4 where a dwelling house can or has been lawfully erected on the land. It is understood that these amendments to the LEP will result in more land being able to be developed for the purpose of residential accommodation.
2. The RFS recommends that further investigation is undertaken to ensure that the proposal is consistent with Section 117(2) 4.4 direction. Where the proposed amendments will result in additional development on or near bush fire prone land, further investigations should address the following:
 - a. How the proposal has regard for *Planning for Bush Fire Protection 2006 (PBP)*. Future development applications on bush fire prone land will be required to meet the provisions of *Planning for Bush Fire Protection 2006* in accordance with 79BA of the *Environmental Planning and Assessment Act 1979* and 100B of the *Rural Fires Act 1997*. PBP provides bushfire protection measures including Asset

Postal address

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Records Management
Locked Bag 17
GRANVILLE NSW 2141

Street address

NSW Rural Fire Service
Batemans Bay Customer Service Centre
Unit 2, 63 Cranbrook Road
BATEMANS BAY NSW

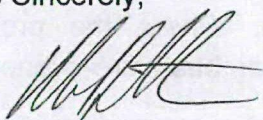
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- Protection Zones, construction, access, emergency planning and services. With specific regard to the proposed amendments, PBP provides provisions for access to rural subdivisions and isolated rural subdivisions. For example, when a dwelling is located greater than 200 metres from a public through road, a secondary access route should be provided. In addition, PBP requires that dual occupancy developments are assessed as if they were a subdivision.
- b. How the proposal avoids placing developments in inappropriate areas. It is envisaged that the proposal will result in an increase in residential development in rural areas. Council should address whether these areas are appropriate with regards to bushfire risk. This includes:
 - i. Addressing whether the locations where further development will take place are adjoining a bushland interface and investigating whether vegetation management is possible for the purpose of reducing hazards;
 - ii. Whether the proposal will result in an additional development in isolated locations where access to the site and egress from the site may result in a greater risk to occupants and fire fighters in the event of a fire;
 - iii. Whether the locations are adequate in terms of water supply and other relevant services.
 - c. Council should be aware that the introduction of Amendment II of the Australian Standard AS2959-2009 *Construction of Buildings in Bushfire Prone Areas* on 1 May 2011 includes grasslands as a hazardous vegetation category. Any future development will need to consider this at the design and construction stage under the provisions of the Building Code of Australia. Please note that where land is not mapped as bushfire prone, any bushfire threat to a development should be considered under 79C of the *EPA Act*.

The N.S.W. Rural Fire Service has no objection to the progression of the planning proposal providing Council considers and provides adequate justification with regards to the above comments prior to the proposal being finalised.

For any queries regarding this correspondence please contact Lauren Ellevsen on 44 720600.

Yours Sincerely,



Martha Dotter
Acting Team Leader Development Assessment and Planning

The RFS has made getting information easier. For general information on 'Planning for Bush Fire Protection 2006', visit the RFS web page at www.rfs.nsw.gov.au and search under 'Planning for Bush Fire Protection 2006'.